

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ORLANDO BROWN,

Petitioner,

Case No. 19-cv-12741  
Hon. Matthew F. Leitman

v.

DEWAYNE BURTON,

Respondent.

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**ORDER GRANTING PETITIONER'S SECOND  
REQUEST FOR AN EXTENSION OF TIME (ECF No. 16)**

Petitioner Orlando Brown is a state prisoner in the custody of the Michigan Department of Corrections. On September 19, 2019, Brown filed a *pro se* habeas corpus petition under 28 U.S.C. § 2254. (*See* Pet., ECF No. 1.) After Respondent filed an answer in opposition to the habeas petition, Brown asked the Court to stay the federal proceedings while he exhausted state remedies for several new claims. (*See* Mot., ECF No. 12, PageID.3386-3392.) On August 3, 2020, the Court granted Brown's motion, but conditioned the stay on Brown presenting his unexhausted claims to the state trial court no later than December 14, 2020. (*See* Order, ECF No. 13, PageID.3507.)

On November 30, 2020, Brown moved for a 30-day extension of time to comply with the Court's order. (*See* Mot., ECF No. 14.) On December 15, 2020, the Court granted Brown's motion and ordered him to present his unexhausted claims to the state court by January 14, 2021. (*See* Order, ECF No.15, PageID.3513).

On March 8, 2021, Brown filed another request for an extension of time. (*See* Request, ECF No. 16.) He alleges that the prison where he is incarcerated has not been operating normally due to an outbreak of COVID-19 and that he has had no access to the prison law library. (*See id.*, PageID.3515.)

Given the difficult and unusual circumstances arising from COVID-19, the Court believes that Petitioner should be given another extension of time to present his unexhausted claims to the state trial court. Accordingly, **IT IS ORDERED** that Brown's request for an extension of time, ECF No. 16, is **GRANTED**. Brown shall have **sixty (60) days** from the date of this order to submit his unexhausted claims to the state trial court.

**IT IS FURTHER ORDERED** that, if Brown is unsuccessful in the state trial court and in the State's appellate courts, he shall have **ninety (90) days** after exhausting state remedies to file an amended habeas corpus petition and a motion to re-open this case. Any failure to comply with the conditions set forth in this order could result in the Court dismissing the habeas petition or ruling on only Brown's

currently exhausted claims. *See Calhoun v. Bergh*, 769 F.3d 409, 411 (6th Cir. 2014).

**IT IS SO ORDERED.**

/s/Matthew F. Leitman  
MATTHEW F. LEITMAN  
UNITED STATES DISTRICT JUDGE

Dated: April 5, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on April 5, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda  
Case Manager  
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